**UNITED STATES DISTRICT COURT**
**EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE**
**MINUTE ORDER**

BEFORE: A. KATHLEEN TOMLINSON
U.S. MAGISTRATE JUDGE

DATE: 6/4/07
TIME: 11:00 AM

***FragranceNet. Com, Inc. -v- FragranceX.com, Inc.*, CV 06-2225 (JFB) (AKT)**

TYPE OF CONFERENCE: INITIAL CONFERENCE

APPEARANCES: Plaintiff Robert L. Sherman, Rebecca Myers

Defendant David M. Rabinowitz

SCHEDULING:

The next conference will be held on **October 23, 2007 at 10:30 a.m.**

THE FOLLOWING RULINGS WERE MADE:

1. The parties appeared for the Initial Conference this morning after having appeared before District Judge Bianco on Plaintiff's request to amend the Complaint. The parties advise that Judge Bianco directed discovery to go forward on the claim set forth in the existing Complaint. If the motion is subsequently granted, the scope and timing of discovery will be addressed further.

   The parties previously met for a Rule 26(f) conference and agreed on certain elements of the discovery schedule. I am adopting the case management plan submitted by them as to the points on which they agreed. I have imposed the remaining dates. The Case Management and Scheduling Order will be entered separately. Initial disclosures are to be served no later than June 8, 2007.

2. With regard to production, the parties have entered into a Stipulation and Order governing the production of documents and information. I will review the Stipulation and if acceptable will "so order" the document separately.

3. The parties have preliminarily discussed production of electronically stored data and corresponding metadata. Should any dispute arise over the form or content of such production, the parties are to contact Chambers immediately to discuss.

4. Defendant wishes to bifurcate discovery on liability and damages. I have advised Defendant's counsel that such a request requires motion practice. The parties are directed to follow my Individual Practice Rules with respect to the filing of letter motions.

5. As set forth in my Individual Rules, as well as the Case Management and Scheduling Order entered today, **three business days before the October 23, 2007 status conference, the parties are directed to file a letter** either reporting that discovery is proceeding on schedule

and that there are no pending disputes requiring court intervention, or alternatively briefly describing the issues to be discussed at the conference. If warranted, I will cancel or adjourn the conference.

6. Also as set forth in my Individual Rules, as well as the Case Management and Scheduling Order entered today, **no less than two business days before the pretrial conference**, each party must submit by mail or fax (not by ECF) a one-page, *ex parte* statement of its settlement position.

7. In accordance with Local Rule 37.3, the parties are obligated to confer in good faith to resolve any outstanding discovery disputes. If the parties cannot resolve the dispute among themselves the parties should seek judicial intervention by filing the appropriate letter motion as expeditiously as possible.

SO ORDERED

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
U.S. Magistrate Judge